

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

Initially, Applicants would like to thank the Examiner for the indication that claims 9 and 11-13 contain allowable subject matter in paragraph 11 of the Office Action. It is also noted that the paragraph inadvertently refers to claims 9 and 11-14. Claim 14 has been withdrawn and cancelled.

Claims 1 and 10 are amended, and claims 17-24 are new. Claims 21-24 incorporate subject matter that has been deemed allowable. In particular, claim 21 incorporates original claims 1, 7, 8 and 9. Claim 22 incorporates original claims 1, 7 and 11. Claim 23 incorporates original claims 1, 7 and 12. Claim 24 incorporates original claims 1, 7 and 13.

Claims 4, 5 and 14-16 are cancelled.

Regarding paragraphs 1 and 2 of the Office Action, claim 10 as amended is believed to overcome the rejection under 35 U.S.C. § 112, second paragraph. Withdrawal of the rejection is therefore respectfully requested.

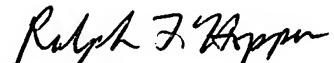
In paragraphs 3-5 of the Office Action, claims 1, 2, 7, 8, and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,958,576 to Komiya (hereinafter “Komiya”). Furthermore, in paragraphs 6-8, claims 3 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Komiya. Claim 1 as amended is believed to clearly distinguish over Komiya. Claim 1 now clarifies that, in the claimed clipping device, a clip for use in clipping a living tissue is detachably coupled to a coupling member and adapted to be closed by a pulling operation of an operation wire, in which, when the wire is being pulled, the clip is separated in a closed state from the coupling member. Applicants’ invention provides a clipping device that advantageously allows ligation to be carried out with a clip simply by

performing a pulling operation once. Komiya fails to disclose or suggest such a device at least because the clip of Komiya is not separated in a closed state from a coupling member when an operation wire is being pulled. Withdrawal of the rejection is therefore respectfully requested.

In paragraphs 9 and 10 of the Office Action, claims 1 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of co-pending U.S. Patent Application No. 09/975,490. Applicants note that this application has issued as U.S. Patent 6,814,742 on November 9, 2004. The rejection is believed to be moot in view of the claims in the issued patent. The Examiner is respectfully requested to reconsider the rejection in view of the claims in the issued patent. If a double-patenting rejection is maintained, Applicants will consider filing a terminal disclaimer.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


Ralph F. Hoppin
Registration No.: 38,494

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:RFH:cm